

# HOUSE . . . . . No. 3559

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## The Commonwealth of Massachusetts

PRESENTED BY:

**Ruth B. Balser**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the continuity of care of mental health treatment

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Ruth B. Balser	12th Middlesex
Barbara A. L'Italien	18th Essex
Elizabeth A. Malia	11th Suffolk
Ellen Story	3rd Hampshire
Kay Khan	11th Middlesex
James B. Eldridge	Middlesex and Worcester
Jennifer L. Flanagan	Worcester and Middlesex
Steven J. D'Amico	4th Bristol
Denise Provost	27th Middlesex
Carl M. Sciortino, Jr.	34th Middlesex
Susan C. Fargo	Third Middlesex
Karen E. Spilka	Second Middlesex and Norfolk
Jennifer M. Callahan	18th Worcester
Gale D. Candaras	First Hampden and Hampshire

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT RELATIVE TO THE CONTINUITY OF CARE OF MENTAL HEALTH TREATMENT.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 1 of chapter 176O of the General Laws, as appearing in the 2006  
2 Official Edition, is hereby amended by inserting after the definition of “Concurrent review” the  
3 following definition:-

4           “Continuing course of treatment”, having at least one visit in the past four months for the  
5 same or similar mental health diagnosis or set of symptoms.

6           SECTION 2. Section 15 of said chapter 176O, as so appearing, is hereby amended by  
7 striking out the title “Continued treatment by involuntarily disenrolled physicians and providers;  
8 specialty health care coverage” and inserting in place thereof the following title:-

9           Continued treatment by out-of-network physicians and providers; specialty health care  
10 coverage.

11          SECTION 3. Section 15 of said chapter 176O, as so appearing, is hereby further  
12 amended by inserting after subsection (k) the following subsection:-

13          (1) A carrier shall allow any insured who is engaged in a continuing course of treatment  
14 with a licensed mental health provider eligible for coverage under the plan, and whose provider  
15 in connection with said mental health treatment is involuntarily or voluntarily disenrolled, other  
16 than for quality-related reasons or for fraud, or whose carrier has changed for any reason thereby  
17 placing the provider out-of-network, to continue treatment with said provider through an out-of-  
18 network option, pursuant to the following:

19          (1) The carrier shall reimburse the licensed mental health care professional the usual  
20 network per-unit reimbursement rate for the relevant service and provider type as payment in  
21 full. If more than one reimbursement rate exists, the carrier shall use the median reimbursement  
22 rate.

23          (2) The non-network option may require that a covered person pay a higher co-payment  
24 only if the higher co-payment results from increased costs caused by the use of a non-network

25 provider. The carrier shall provide an actuarial demonstration of the increased costs to the  
26 division of health care finance and policy at the commissioner's request. If the increased costs  
27 are not justified, the commissioner shall require the carrier to recalculate the appropriate costs  
28 allowed and resubmit the appropriate co-payment to the division of health care finance and  
29 policy.

30 (3) No additional charges, costs or deductibles may be levied due to the exercise of the  
31 out-of-network option. The amount of any additional co-payment charged by the carrier for the  
32 additional cost of the creation and maintenance of coverage described in subsection (1) of this  
33 section shall be paid by the covered person unless it is paid by an employer or other person  
34 through agreement with the carrier.

35 SECTION 4. Subsection (e) of section 15 of said chapter 176O, as so appearing, is  
36 hereby amended by striking out, in lines 37-38, the words "that could have been imposed if the  
37 provider had not been disenrolled;" and inserting the following words:- permitted under this  
38 section;

39 SECTION 5. Subsection (e) of section 15 of said chapter 176O, as so appearing, is  
40 hereby further amended by striking out, in line 45, the word "remained" and inserting the  
41 following words:- had been